THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.25026 of 1997

ORDER:

This writ petition is filed seeking a Mandamus declaring the Memo No.1305/TGP.II/96-12 dated 23.6.1997 and consequential Memo No.55947/TGP.II(1)/94-17 dated 1.7.1997 issued by the respondents contrary to the system adopted as per the directions of the Board as arbitrary, illegal and consequently to direct the respondents to pay ex-gratia amount sanctioned as per G.O.Rt.No.332 dated 20.5.1996.

It is the case of the petitioners that they are the owners of various extents of lands in Survey Nos.67, 68, 71, 72, 74/2, 79, 95, 96, 138, 139, 140/2, 144, 143, 154, 60 and 64 and they have dug 29 wells for the purpose of irrigating the said lands. The said lands were acquired by the respondents by issuing a notification under Section 4(1) of the Land Acquisition Act, 1894 in extraordinary Gazette No.I being SSP.No.26 dated 23.9.1992 and SSP.No.27 dated 25.9.1992 as they were submerged under Priyadarshini Jurala Project at Erladinne village of Narva mandal, Mahabubnagar district. The grievance of the petitioners is that insofar as the lands are concerned, they were paid compensation under Award No.21/93 dated 7.6.1993, but however, the compensation for the wells and the land covered by the wells was deferred. In this regard, petitioners made representation to the respondents. The Government on a careful consideration of the matter and as per the report of the Special Collector, Srisailam Project, Kurnool and the Commissioner of Land Revenue, Andhra Pradesh, Hyderabad, issued G.O.Rt.No.332, Irrigation & Command Area Development (Projects Wing-TGP.II) Department dated 20.5.1996 according sanction of Rs.14,80,403/- towards payment of ex gratia for the 29 agricultural wells under 'Mattu' system. This G.O. seems to have been issued on the recommendation of the Chief Engineer, Major Irrigation, Hyderabad, who reported that awarding of compensation for

the wells under 'Mattu' system would satisfy the sentiments of land oustees and losers of their ancestral properties under Priyadarshini Jurala Project. However, after issuing the said G.O., the present memo dated 23.6.1997 was issued stating that the instructions contained in the Government Memo dated 18.11.1993 are withdrawn regarding adoption of Mattu system in all projects in the State and consequently, the impugned Memo dated 1.7.1997 was issued stating that in the light of the instructions contained in the Government Memo dated 23.6.1997, the Special Collector, Srisailam Project is requested to review the present case and also the case in respect of the orders issued in G.O.Rt.No.332, I & CAD (PW) Department dated 20.5.1996 allowing compensation for 29 wells and report the exact amounts of compensation that are due to be paid as per open excavation system. In view of the said Memo, the petitioners were not paid any amounts till date.

After considering the recommendations of the Chief Engineer, Major Irrigation as well as the Special Collector, Srisailam Project, Kurnool, the Government had G.O.Rt.No.332 dated 20.5.1996 separately in respect of 29 wells of the petitioners. Since the Memo dated 18.11.1993 was withdrawn by Memo dated 23.6.1997, and pursuant to that, the petitioners were denied payment ex gratia amount. Hence the writ petition.

Be that as it may, the learned counsel for petitioners strenuously contended that the Government after careful consideration of the petitioners case as a class, sanctioned certain amounts to the petitioners as ex gratia and they are entitled for the same. Withdrawal of Memo dated 18.11.1993 has no consequence insofar as petitioners are concerned and that may be applicable in future and other cases. Once the G.O. is issued in favour of petitioners and unless and until, it is withdrawn by appropriate authority, the question of denying ex gratia amount granted in the guise of impugned Memo, will not arise.

In view of the above, I am of the considered opinion, once the G.O. has been issued by examining the cases of the petitioners in

respect of 29 wells, and amounts were sanctioned by applying Mattu system, the Memos issued thereafter withdrawing the application of Mattu system has no relevance to the facts of this case. May be, the Mattu system was withdrawn, but so long as the G.O. issued in favour of petitioners is not cancelled by appropriate authority, the petitioners are entitled for the amounts granted thereunder.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the sixth respondent to pay ex-gratia amount sanctioned under G.O.Rt.No.332, I & CAD (PW) Department dated 20.5.1996 to the petitioners by applying 'Mattu' system, by passing a supplementary award if necessary, within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

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C.V.RAMULU, J

Date: 11.7.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

11.7.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.25026 of 1997

Dated: 11th July, 2006

Between:

Pedda Hanmanthu & others.

.. Petitioners

and

The Secretary to Government of A.P.,

Irrigation & Command Area Development
(Projects Wing) Department, Secretariat,
Hyderabad & others.

.. Respondents